

110TH CONGRESS
1ST SESSION

S. 806

To give consumers tools to protect themselves from ID theft by allowing them to prevent unauthorized access to their credit reports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2007

Mr. PRYOR introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To give consumers tools to protect themselves from ID theft by allowing them to prevent unauthorized access to their credit reports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer ID Protec-
5 tion and Security Act”.

6 **SEC. 2. SECURITY FREEZE.**

7 (a) IN GENERAL.—

8 (1) EMPLACEMENT.—A consumer may place a
9 security freeze on the consumer’s credit report by

1 making a request to a consumer credit reporting
2 agency in writing, by telephone, or through a secure
3 electronic connection if such a connection is made
4 available by the consumer credit reporting agency.

5 (2) CONSUMER DISCLOSURE.—If a consumer
6 requests a security freeze, the consumer credit re-
7 porting agency shall disclose to the consumer the
8 process of placing and removing the security freeze.
9 A consumer credit reporting agency may not imply
10 or inform a consumer that the placement or pres-
11 ence of a security freeze on the consumer’s credit re-
12 port may negatively affect the consumer’s credit
13 score.

14 (b) EFFECT OF SECURITY FREEZE.—

15 (1) RELEASE OF INFORMATION BLOCKED.—If a
16 security freeze is in place on a consumer’s credit re-
17 port, a consumer credit reporting agency may not
18 release the credit report for consumer credit pur-
19 poses to a third party without prior express author-
20 ization from the consumer.

21 (2) INFORMATION PROVIDED TO THIRD PAR-
22 TIES.—Paragraph (1) does not prevent a consumer
23 credit reporting agency from advising a third party
24 that a security freeze is in effect with respect to the
25 consumer’s credit report. If a third party, in connec-

1 tion with a request for information in any cir-
2 cumstance under which a consumer reporting agency
3 may furnish a consumer report under section 604(a)
4 of the Fair Credit Reporting Act (15 U.S.C. 1681b),
5 requests access to a consumer credit report on which
6 a security freeze is in place, the third party may
7 treat any application associated with the request as
8 incomplete.

9 (3) CONSUMER CREDIT SCORE NOT AF-
10 FECTED.—The placement of a security freeze on a
11 credit report may not be taken into account for any
12 purpose in determining the credit score of the con-
13 sumer to whom the account relates.

14 (c) REMOVAL; TEMPORARY SUSPENSION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2)(B), a security freeze shall remain in place
17 until the consumer requests that the security freeze
18 be removed. A consumer may remove a security
19 freeze on the consumer’s credit report by making a
20 request to a consumer credit reporting agency in
21 writing, by telephone, or through a secure electronic
22 connection made available by the consumer credit re-
23 porting agency.

1 (2) CONDITIONS.—A consumer credit reporting
2 agency may remove a security freeze placed on a
3 consumer’s credit report only—

4 (A) upon the consumer’s request, pursuant
5 to paragraph (1); or

6 (B) if the agency determines that the con-
7 sumer’s credit report was frozen due to a mate-
8 rial misrepresentation of fact by the consumer.

9 (3) NOTIFICATION TO CONSUMER.—If a con-
10 sumer credit reporting agency intends to remove a
11 freeze upon a consumer’s credit report pursuant to
12 paragraph (2)(B), the consumer credit reporting
13 agency shall notify the consumer in writing prior to
14 removing the freeze on the consumer’s credit report.

15 (4) TEMPORARY SUSPENSION.—A consumer
16 may have a security freeze on the consumer’s credit
17 report temporarily suspended by making a request
18 to a consumer credit reporting agency in writing or
19 by telephone and—

20 (A) specifying beginning and ending dates
21 for the period during which the security freeze
22 is not to apply to that consumer’s credit report;
23 or

1 (B) specifying a specific third party to
2 which access to the credit report may be grant-
3 ed notwithstanding the freeze.

4 (d) RESPONSE TIMES; NOTIFICATION OF OTHER EN-
5 TITIES.—

6 (1) IN GENERAL.—A consumer credit reporting
7 agency shall—

8 (A) place a security freeze on a consumer's
9 credit report under subsection (a) no later than
10 3 business days after receiving a request from
11 the consumer under subsection (a)(1);

12 (B) remove a security freeze within 3 busi-
13 ness days after receiving a request for removal
14 from the consumer under subsection (c); and

15 (C) temporarily suspend a security freeze
16 within 1 business day after receiving a request
17 under subsection (c)(4).

18 (2) NOTIFICATION OF OTHER COVERED ENTI-
19 TIES.—If the consumer requests in writing, by tele-
20 phone, or by secure electronic connection that other
21 covered entities be notified of the request, the con-
22 sumer credit reporting agency shall notify all other
23 consumer credit reporting agencies described in sec-
24 tion 603(p)(1) of the Fair Credit Reporting Act (15
25 U.S.C. 1681a(p)(1)) of the request within 3 days

1 after placing or removing a security freeze on the
2 consumer's credit report under subsection (a) or
3 (c)(2)(A), or within 1 day after temporarily sus-
4 pending a security freeze on the consumer's credit
5 report under subsection (c)(4).

6 (3) IMPLEMENTATION BY OTHER COVERED EN-
7 TITIES.—A consumer credit reporting agency that is
8 notified of a request under paragraph (2) to place,
9 remove, or temporarily suspend a security freeze on
10 a consumer's credit report shall—

11 (A) request proper identification from the
12 consumer, in accordance with subsection (f),
13 within 3 business days after receiving the notifi-
14 cation; and

15 (B) place, remove, or temporarily suspend
16 the security freeze on that credit report within
17 3 business days after receiving proper identi-
18 fication.

19 (e) CONFIRMATION.—Except as provided in sub-
20 section (c)(3), whenever a consumer credit reporting agen-
21 cy places, removes, or temporarily suspends a security
22 freeze on a consumer's credit report at the request of that
23 consumer under subsection (a) or (c), respectively, it shall
24 send a written confirmation thereof to the consumer with-
25 in 10 business days after placing, removing, or temporarily

1 suspending the security freeze on the credit report. This
2 subsection does not apply to the placement, removal, or
3 temporary suspension of a security freeze by a consumer
4 credit reporting agency because of a notification received
5 under subsection (d)(2).

6 (f) ID REQUIRED.—A consumer credit reporting
7 agency may not place, remove, or temporarily suspend a
8 security freeze on a consumer’s credit report at the con-
9 sumer’s request unless the consumer provides proper iden-
10 tification (within the meaning of section 610(a)(1) of the
11 Fair Credit Reporting Act (15 U.S.C. 1681h) and the reg-
12 ulations thereunder.

13 (g) EXCEPTIONS.—This section does not apply to the
14 use of a consumer credit report by any of the following:

15 (1) A person or entity, or a subsidiary, affiliate,
16 or agent of that person or entity, or an assignee of
17 a financial obligation owing by the consumer to that
18 person or entity, or a prospective assignee of a fi-
19 nancial obligation owing by the consumer to that
20 person or entity in conjunction with the proposed
21 purchase of the financial obligation, with which the
22 consumer has or had prior to assignment an account
23 or contract, including a demand deposit account, or
24 to whom the consumer issued a negotiable instru-
25 ment, for the purposes of reviewing the account or

1 collecting the financial obligation owing for the ac-
2 count, contract, or negotiable instrument.

3 (2) Any Federal, State or local agency, law en-
4 forcement agency, trial court, or private collection
5 agency acting pursuant to a court order, warrant,
6 subpoena, or other compulsory process.

7 (3) A child support agency or its agents or as-
8 signs acting pursuant to subtitle D of title IV of the
9 Social Security Act (42 U.S.C. et seq.) or similar
10 State law.

11 (4) The Department of Health and Human
12 Services, a similar State agency, or the agents or as-
13 signs of the Federal or State agency acting to inves-
14 tigate medicare or medicaid fraud.

15 (5) The Internal Revenue Service or a State or
16 municipal taxing authority, or a State department of
17 motor vehicles, or any of the agents or assigns of
18 these Federal, State, or municipal agencies acting to
19 investigate or collect delinquent taxes or unpaid
20 court orders or to fulfill any of their other statutory
21 responsibilities.

22 (6) Any person or entity administering a credit
23 file monitoring subscription to which the consumer
24 has subscribed.

1 (7) Any person or entity for the purpose of pro-
2 viding a consumer with a copy of the consumer's
3 credit report or credit score upon the consumer's re-
4 quest.

5 (8) Except when access is restricted to a spe-
6 cific third party during a temporary suspension of a
7 security freeze under subsection (c)(4)(B), any per-
8 son who seeks access during the time period that a
9 security freeze is temporarily suspended for the pur-
10 pose of facilitating the extension of credit or another
11 permissible use.

12 (h) FEES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), a consumer credit reporting agency may
15 charge a fee, not in excess of \$15, for placing, re-
16 moving, or temporarily suspending a security freeze
17 on a consumer's credit report.

18 (2) FEES PROHIBITED.—

19 (A) ID THEFT VICTIMS AND NOTIFIED
20 CONSUMERS.—A consumer credit reporting
21 agency may not charge a fee for placing, remov-
22 ing, or temporarily suspending a security freeze
23 on a consumer's credit report if—

1 (i) the consumer is a victim of identity
2 theft or has received a notice under section
3 3(c) of this Act;

4 (ii) the consumer requests the security
5 freeze in writing;

6 (iii) the consumer has filed a police
7 report with respect to the theft, or an iden-
8 tity theft report (as defined in section
9 603(q)(4) of the Fair Credit Reporting Act
10 (15 U.S.C. 1681a(q)(4))), within 90 days
11 after the theft occurred or was discovered
12 by the consumer; and

13 (iv) the consumer provides a copy of
14 the report to the credit reporting agency.

15 (B) CATEGORICAL CLASSES.—A consumer
16 credit reporting agency may not charge a fee
17 for placing, removing, or temporarily sus-
18 pending a security freeze on a consumer's credit
19 report if the consumer requesting it—

20 (i) has attained the age of 65 years;

21 (ii) is a on active duty or in the ready
22 reserve component of an armed force of
23 the United States; or

24 (iii) is the spouse of an individual de-
25 scribed in clause (ii).

1 (i) LIMITATION ON INFORMATION CHANGES IN FRO-
2 ZEN REPORTS.—

3 (1) IN GENERAL.—If a security freeze is in
4 place on a consumer's credit report, a consumer
5 credit reporting agency may not change any of the
6 following official information in that credit report
7 without sending a written confirmation of the
8 change to the consumer within 30 days after the
9 change is made:

10 (A) Name.

11 (B) Date of birth.

12 (C) Social Security number.

13 (D) Address.

14 (2) CONFIRMATION.—Paragraph (1) does not
15 require written confirmation for technical modifica-
16 tions of a consumer's official information, including
17 name and street abbreviations, complete spellings, or
18 transposition of numbers or letters. In the case of an
19 address change, the written confirmation shall be
20 sent to both the new address and to the former ad-
21 dress.

22 (j) CERTAIN ENTITY EXEMPTIONS.—

23 (1) RESELLERS AND OTHER AGENCIES.—The
24 provisions of this Act do not apply to a consumer
25 credit reporting agency that acts only as a reseller

1 of credit information by assembling and merging in-
2 formation contained in the data base of another con-
3 sumer credit reporting agency or multiple consumer
4 credit reporting agencies, and does not maintain a
5 permanent data base of credit information from
6 which new consumer credit reports are produced.

7 (2) OTHER EXEMPTED ENTITIES.—The fol-
8 lowing entities are not required to place a security
9 freeze in a credit report:

10 (A) A check services or fraud prevention
11 services company, which issues reports on inci-
12 dents of fraud or authorizations for the purpose
13 of approving or processing negotiable instru-
14 ments, electronic funds transfers, or similar
15 methods of payments.

16 (B) A deposit account information service
17 company, which issues reports regarding ac-
18 count closures due to fraud, substantial over-
19 drafts, ATM abuse, or similar negative informa-
20 tion regarding a consumer, to inquiring banks
21 or other financial institutions for use only in re-
22 viewing a consumer request for a deposit ac-
23 count at the inquiring bank or financial institu-
24 tion.

1 **SEC. 3. ENFORCEMENT.**

2 (a) ENFORCEMENT BY COMMISSION.—Except as pro-
3 vided in subsection (c), this Act shall be enforced by the
4 Commission.

5 (b) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR
6 PRACTICE.—The violation of any provision of this Act
7 shall be treated as an unfair or deceptive act or practice
8 proscribed under a rule issued under section 18(a)(1)(B)
9 of the Federal Trade Commission Act (15 U.S.C.
10 57a(a)(1)(B)).

11 (c) ENFORCEMENT BY CERTAIN OTHER AGEN-
12 CIES.—Compliance with this Act shall be enforced
13 under—

14 (1) section 8 of the Federal Deposit Insurance
15 Act (12 U.S.C. 1818), in the case of—

16 (A) national banks, and Federal branches
17 and Federal agencies of foreign banks, by the
18 Office of the Comptroller of the Currency;

19 (B) member banks of the Federal Reserve
20 System (other than national banks), branches
21 and agencies of foreign banks (other than Fed-
22 eral branches, Federal agencies, and insured
23 State branches of foreign banks), commercial
24 lending companies owned or controlled by for-
25 eign banks, and organizations operating under

1 section 25 or 25A of the Federal Reserve Act
2 (12 U.S.C. 601 and 611), by the Board; and

3 (C) banks insured by the Federal Deposit
4 Insurance Corporation (other than members of
5 the Federal Reserve System) and insured State
6 branches of foreign banks, by the Board of Di-
7 rectors of the Federal Deposit Insurance Cor-
8 poration;

9 (2) section 8 of the Federal Deposit Insurance
10 Act (12 U.S.C. 1818), by the Director of the Office
11 of Thrift Supervision, in the case of a savings asso-
12 ciation the deposits of which are insured by the Fed-
13 eral Deposit Insurance Corporation;

14 (3) the Federal Credit Union Act (12 U.S.C.
15 1751 et seq.) by the National Credit Union Adminis-
16 tration Board with respect to any Federal credit
17 union; and

18 (4) the Securities and Exchange Act of 1934
19 (15 U.S.C. 78a et seq.) by the Securities and Ex-
20 change Commission with respect to—

21 (A) a broker or dealer subject to that Act;

22 (B) an investment company subject to the
23 Investment Company Act of 1940 (15 U.S.C.
24 80a–1 et seq.); and

1 (C) an investment advisor subject to the
2 Investment Advisers Act of 1940 (15 U.S.C.
3 80b–1 et seq.).

4 (d) EXERCISE OF CERTAIN POWERS.—For the pur-
5 pose of the exercise by any agency referred to in sub-
6 section (c) of its powers under any Act referred to in that
7 subsection, a violation of this Act is deemed to be a viola-
8 tion of a requirement imposed under that Act. In addition
9 to its powers under any provision of law specifically re-
10 ferred to in subsection (c), each of the agencies referred
11 to in that subsection may exercise, for the purpose of en-
12 forcing compliance with any requirement imposed under
13 this Act, any other authority conferred on it by law.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) COMMISSION.—The term “Commission”
17 means the Federal Trade Commission.

18 (2) CONSUMER CREDIT REPORTING AGENCY.—
19 The term “consumer credit reporting agency” means
20 any person which, for monetary fees, dues, or on a
21 cooperative nonprofit basis, regularly engages in
22 whole or in part in the practice of assembling or
23 evaluating consumer credit information or other in-
24 formation on consumers for the purpose of fur-
25 nishing credit reports to third parties, and which

1 uses any means or facility of interstate commerce
2 for the purpose of preparing or furnishing credit re-
3 ports.

4 (3) CREDIT REPORT.—The term “credit report”
5 means a consumer report, as defined in section
6 603(d) of the Fair Credit Reporting Act (15 U.S.C.
7 1681a(d)), that is used or expected to be used or
8 collected in whole or in part for the purpose of serv-
9 ing as a factor in establishing a consumer’s eligi-
10 bility for credit for personal, family or household
11 purposes.

12 (4) IDENTITY THEFT.—The term “identity
13 theft” has the meaning given that term by section
14 603(q)(3) of the Fair Credit Reporting Act (15
15 U.S.C. 1681a(q)(3)).

16 (5) REVIEWING THE ACCOUNT.—The term “re-
17 viewing the account” includes activities related to
18 account maintenance, monitoring, credit line in-
19 creases, and account upgrades and enhancements.

20 (6) SECURITY FREEZE.—The term “security
21 freeze” means a notice that—

22 (A) a consumer credit reporting agency
23 places at the request of a consumer in the file
24 on the consumer at the consumer credit report-
25 ing agency; and

1 (B) prohibits the agency from releasing
2 consumer credit report information on the con-
3 sumer for consumer credit purposes without the
4 express authorization of the consumer, except
5 as otherwise provided in this Act.

6 (7) SENSITIVE PERSONAL INFORMATION.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraphs (B) and (C), the term “sensitive
9 personal information” means an individual’s
10 name, address, or telephone number combined
11 with 1 or more of the following data elements
12 related to that individual:

13 (i) Social security number, taxpayer
14 identification number, or an employer iden-
15 tification number that is the same as or is
16 derived from the social security number of
17 that individual.

18 (ii) Financial account number, or
19 credit card or debit card number of such
20 individual, combined with any required se-
21 curity code, access code, or password that
22 would permit access to such individual’s
23 account.

1 (iii) State driver's license identifica-
2 tion number or State resident identifica-
3 tion number.

4 (B) FTC MODIFICATIONS.—The Commis-
5 sion may, through a rulemaking proceeding in
6 accordance with section 553 of title 5, United
7 States Code, designate other identifying infor-
8 mation that may be used to effectuate identity
9 theft as sensitive personal information for pur-
10 poses of this Act and limit or exclude any infor-
11 mation described in subparagraph (A) from the
12 definition of sensitive personal information for
13 purposes of this Act.

○